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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,392	09/27/2006	Werner Strothoff	29805.118.2	8024
22859 7590 07/14/2009 INTELLECTUAL PROPERTY GROUP FREDRIKSON & BYRON, P.A. 200 SOUTH SIXTH STREET, SUITE 4000 MINNEAPOLIS, MN 55402				
EXAMINER				
CORMIER, DAVID G				
ART UNIT		PAPER NUMBER		
1792				
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07/14/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,392

Applicant(s)

STROTHOFF ET AL.

Examiner

DAVID CORMIER

Art Unit

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date 10052006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 5 recites the limitations "the key" and "the socket" in line 3. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-4, 6, 7, 9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Nissinen et al. (WO 01/94040).**
6. Regarding Claims 1, 2 and 12, Nissinen discloses a system for semi-automatic cleaning in a beverage dispensing system, said beverage dispensing system comprising at least one tap (Figure 1, 18) connected via at least one beverage line (26) to at least one coupling means, "tube," (21) for a keg or other beverage container (30),

said cleaning system comprising at least one additional cleaning line (17), a control unit (25) and at least one switching means connected to the control unit for switching between a tapping mode and a cleaning mode of the beverage dispensing system, "wireless code key," (Figure 6; page 7, lines 10-34), wherein the switching means is designed as an electronic key switch (i.e. a transponder), "wireless service key" (page 7, lines 28-34). Regarding Claim 12, the switching means is considered to be positioned next to the beverage tap.

7. Regarding Claims 3 and 4, because *either* an electronic key switch *or* a mechanical key switch is being claimed in Claim 1 and Nissinen discloses having an electronic key switch, any limitations regarding a mechanical key switch can be considered optional limitations which do not have to be met by the prior art in order to anticipate the claims.

8. Regarding Claims 6 and 7, the switching means has lamps (32, 33, 34, 35) which light up in different intervals (page 7, lines 10-20).

9. The limitations of Claim 9 and 11 are considered to be intended use of the apparatus of Nissinen and are not being given patentable weight. For example, the apparatus of Nissinen could be used in a process where the control unit provides for a cleaning interval setting or calculation, the optical status indicator is used to alert an operator when a cleaning is overdue, or after activation of the switching means there is a preliminary interval where deactivation of the switching means will start a rinsing step. The claimed intended use must result in a structural difference between the claimed

invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

10. Regarding Claim 13, the entire unit of Figure 6 could be broadly and reasonably construed as an "optical status indicator," and the unit shows both text and symbols.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nissinen et al. (WO 01/94040) in view of Dillon (US 5,400,766).

14. Nissinen is relied upon as applied to Claim 1. Nissinen does not expressly disclose that the switching means in connection with the control unit is provided with a

safety feature preventing removal of the key from the socket before the end of a cleaning sequence.

15. Dillon discloses a gas stove which uses a mechanical key to actuate a valve (abstract). There is a safety feature in which a finger (78) of the key operates with the cover cap (56) such that the key cannot be removed when the valve is in the on position (Figure 2; col. 3, lines 20-43).

16. Because it is known in the art to use a mechanical key, as taught by Dillon, or an electronic key, as taught by Nissinen, and the results of the substitution would be predictable, namely, an effective means of starting and stopping a particular operation of an apparatus, it would have been obvious to one of ordinary skill in the art at the time of the invention that the mechanical key assembly of Dillon could be substituted for the electronic key of Nissinen. And furthermore, the mechanical key assembly of Dillon would include a safety feature which would prevent the removal of the key during a particular operation.

17. Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nissinen et al. (WO 01/94040).

18. Regarding Claim 8, Nissinen is relied upon as applied to Claim 7. Nissinen does not expressly disclose that the optical status indicator is provided by a transparent socket illuminated from behind by a lamp or lamps with light of a different color or in different intervals, wherein the lamp or lamps are attached to or part of the socket.

19. It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the lights of Nissinen with a light source, such as an LED, and to

have the LED held in a socket having a transparent protective covering, yielding the predictable result of having an effective optical indicator.

20. Regarding Claim 10, Nissinen is relied upon as applied to Claim 9. Nissinen does not expressly disclose that the alerting mode is indicated by blinking of the optical status indicator alternating in red and green. The alerting mode and alternating blinking is considered to be intended use and is not being given patentable weight. The blinking in red and green is considered to be a functional limitation of the optical status indicator, which is not met by Nissinen; however because Nissinen discloses a plurality of lights serving to indicate the operational status of the apparatus (see Figure 6) and it is well known to use different colored lights to convey different information, it would have been obvious to one of ordinary skill in the art at the time of the invention to use red and green lights as indicators for conveying different types of information.

Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID CORMIER whose telephone number is (571) 270-7386. The examiner can normally be reached on Monday - Thursday 8:30 - 6:00.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DGC/
David Cormier
07/10/2009

/FRANKIE L. STINSON/
Primary Examiner, Art Unit 1792